IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4929 OF 2005

1. Sanjay Mahadeo Lade
2. Gajanan Mahadeo Lade. ... Applicants.

Versus.

The State of Maharashtra. ... Respondent.

Shri V.V.Purwant for the Applicant.

Ms.M.H.Mhatre, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 17th August, 2005.

P.C.:

1. Heard the leanred Counsel appearing for the Applicant and the learned A.P.P. for the State.

2. The learned Advocate for the Applicant states that he is not pressing the Application in so far as the Applicant No.1 is concerned. The Advocate for the Applicant submitted that no specific role has been ascribed to the Applicant No.2 and only general allegations have been made against the Applicant No.2 and the other accused. He submitted that the Applicant is in custody from May 2005 and after filing of the charge sheet his cutsody need not be continued. The learned A.P.P. has placed on record for my persual a copy of the charge sheet. The learned A.P.P. submitted that considering the seriousness of the allegations against the Applicant No.2, no case is made out for

enlarging the Applicant No.2 on bail.

3. I have considered the submissions. Initially offence was registered under sections 323, 325, 147, 148, 149 of the Indian Penal Code and the Applicants were enlarged on bail. On the next day of the incident, one of the injured persons succumbed to death as a result of which section 302 was applied and the Applicants were taken in custody. The statement of the deceased victim has not been recorded. The statement of the other injured person has been recorded. The F.I.R. discloses that the Applicant along with the other co-accused assaulted the injured person and the deceased by sticks, hands and by using stones. The specific allegation has been made against the Applicant No.1 that he pulled the leg of the deceased who was travelling on motor cycle. There is specific allegation of assault by using stones made against some of the co-accused in the F.I.R. as well as in the statement of eye witnesses. In so far as the Applicant No.2 is concerned only a general allegation is made against the Applicant No.2 that he along with the other co-accused assaulted the deceased and the injured person. Admittedly no recovery has been made at the instance of the Applicant No.2. No criminal antecedents of the Applicant No.2 have been brought on record. In this view of the matter, the Applicant No.2 is entitled to be enlarged on bail.

4. In view of the above, the following order is passed:

(i) The Applicant No.2 shall be enlarged on bail in connection with C.R.No.24/2005 of Mandrup Police Station, Solapur, subject to furnishing a personal bond of Rs.10,000/- with one or two local sureties.

(ii) The Bail is granted subject to condition that the Applicant No.2 shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iii) The Applicant No.2 shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant No.2 to delay the trial may be a ground for cancellation of bail.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) The trial shall be concluded by treating

the case as High Court expedited case.

(vi) The Application of the Applicant No.1 is dismissed as not pressed.

(vii) Application is disposed of in above terms.

Judge.